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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,792	01/10/2005	Aldo Di Nicolantonio	3165	3246

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EXAMINER

BREAN, LAURA MICHELLE

ART UNIT PAPER NUMBER

3724

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/520,792

Applicant(s)

DI NICOLANTONIO, ALDO

Examiner

Laura M. Brean

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/26/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 10 is objected to because of the following informalities:

Claim 10, line 3, "only occurs an advancing force" should be -- only occurs if an advancing force--.

. Appropriate correction is required.

Drawings

The drawings were received on 5/31/2006. These drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergler et al. (U.S. Patent 4,262,421), herein referred to as Bergler. Bergler discloses a motor driven compass saw machine (reciprocating jig-saw) having a housing (1) that

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contains a longitudinally moving lifer rod (9), which supports a saw blade (10), and an oscillating mechanism (rotary plate, 20) that is able to impart a variable oscillation stroke, which is oriented lateral to the longitudinal motion, to the saw blade (10), wherein means is provided for automatically adjusting the oscillation stroke smoothly between the maximum and minimum stroke during the sawing process, as a function of the operating mode (see abstract; column 6, lines 42-50).

In regards to claim 2, Bergler discloses that the oscillation mechanism (20) has a roller lever (24) that is disposed in the housing (1) can rotate around a horizontal first axis (point of rotation), and supports a roller (27) that remains in contact with the saw blade (10) and can rotate around a horizontal second axis (see Figures 7 and 8), and whose oscillation mechanism has a fork lever (swing lever, 18) that periodically deflects the roller lever (24) (Figure 8), wherein it is possible to control the oscillation stroke as a function of the pressure of the saw blade (10) against a work piece to be sawn (see abstract; column 6, lines 42-50).

In regards to claim 3, Bergler discloses that the oscillation mechanism (20) includes a spring element (spring loaded, column 6, lines 4-12), that is disposed between the housing (1) and the end of the roller lever (24) orientated away from the roller (27) and cooperates with a component parallel to the deflection direction of the fork lever (18).

In regards to claim 4, Bergler discloses that parallel to the spring element (spring loaded, column 6, lines 4-12), a damping device (counter weights, 13) is disposed

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between the housing (1) and the end of the roller lever (24) orientated away from the roller (27).

In regards to claim 5, Bergler discloses that underneath the roller lever (24), in the region of its end orientated away from the roller (27), a first stop (unnumbered, bottom of housing beneath lever 24; Figure 13) is provided on the housing (1).

In regards to claim 6, Bergler discloses that above the roller lever (24), in the region of its end orientated away from the roller (27) a second stop (switch lever, 22) is provided on the housing (1) (Figure 11).

In regards to claim 7, Bergler discloses that the second stop (22) can be manually set to various distances from the roller lever (24) (column 4, lines 8-11 / 60-62).

In regards to claim 8, Bergler discloses that the second stop (22) is capable of being manually set to discrete distances from the roller lever (24) (column 4, lines 8-11 / 60-62).

In regards to claim 9, Bergler discloses wherein the saw blade (10) is pressed against the roller (24) by a compression spring (Figure 9) whose compression spring force is weaker than a spring force of a spring element (spring loaded, column 6, lines 4-12).

In regards to claim 10, Bergler discloses wherein a deflection of the roller lever only occurs if an advancing force of the compass saw machine is greater than the difference between the spring force and the compression spring force.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bergler. In regards to claim 3, Bergler discloses that the oscillation mechanism (20) includes a spring element (spring loaded, column 6, lines 4-12), that is disposed between the housing (1) and the end of the roller lever (24) orientated away from the roller (27) and cooperates with a component parallel to the deflection direction of the fork lever (18). To the extent that it can be argued, because the spring is not shown, that the spring loaded oscillation mechanism is disposed between the housing (1) and the end of the roller lever (24) orientated away from the roller (27) and cooperates with a component parallel to the deflection direction of the fork lever, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have located the spring at such a location, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

7. In regards to claim 4, Bergler discloses that parallel to the spring element (spring loaded, column 6, lines 4-12), a damping device (counter weights, 13) is disposed

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between the housing (1) and the end of the roller lever (24) orientated away from the roller (27).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Brean whose telephone number is (571) 272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMB
09/29/2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER